

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

DEC 28 2005

SUPERSPEED SOFTWARE, INC.,

Plaintiff,

vs.

ORACLE CORPORATION,

Defendant.

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MICHAEL N. MILBY, CLERK OF COURT

Civil Action No. H-04-3409

**AGREED MOTION FOR DISMISSAL**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES SUPERSPEED SOFTWARE, INC., Plaintiff, in the above-styled and numbered cause of action, and ORACLE CORPORATION, Defendant herein, and move the Court to dismiss this cause with prejudice as against Plaintiff, SUPERSPEED, INC. and Defendant, ORACLE CORPORATION, and as grounds therefor would respectfully show the Court as follows:

**I.**

The Plaintiff and Defendant have settled all matters in dispute in the above-entitled and numbered cause and respectfully move the Court to dismiss all claims made by Plaintiff against Defendant, and all claims made by Defendant against Plaintiff, with prejudice to the refiling of the same.

WHEREFORE, PREMISES CONSIDERED, Plaintiff and Defendant pray that this Court enter its Order dismissing said cause against Defendant, and said cause against Plaintiff, with prejudice to the rights of either party to re-file same or any part thereof, and that costs of court shall be paid by the party incurring same. A proposed Order is attached.

DATED: 12/27/05

Respectfully submitted,

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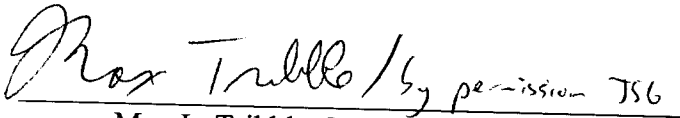
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record, this 28<sup>th</sup> day of December, 2005, as indicated below:

Douglas E. Lumish     *Via E-Mail and Federal Express*  
Matthew D. Powers  
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David J. Healey     *Via E-Mail and Federal Express*  
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\_\_\_\_\_  
Max L. Tribble, Jr.



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Civil Action No. H-04-3409

**ORDER OF DISMISSAL**

The Agreed Motion for Dismissal is hereby GRANTED. It is, therefore

ORDERED that all claims made by Plaintiff against Defendant, and all claims made by Defendant against Plaintiff, are hereby DISMISSED with prejudice to the refiling of the same. It is, further

ORDERED that costs of court shall be paid by the party incurring same.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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UNITED STATES DISTRICT JUDGE